Family reunification of Third Country Nationals in the European Union

National Contribution from the United Kingdom

Home Office Science

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Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled European Migration Network (EMN) Focused Study. The contributing EMN National Contact Points have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN National Contact Point's Member State.
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Executive summary

The UK is not bound by the Directive 2003/86/EC. In the UK the term ‘family reunion’ relates only to individuals joining someone who has been granted protection. Individuals may also apply for a family visa to join family members who are settled in the UK or are British citizens. In addition dependants may accompany or join family members who apply for temporary stay in the UK for reasons such as work or study.

Family reunion

Sponsors who have refugee status or humanitarian protection, but have not yet obtained British citizenship, are eligible to sponsor family reunion applications. Family reunion is only for the spouse or partner/civil partner and children of the sponsor. Other relatives (such as adult children) maybe considered under the ‘exceptional circumstances and compassionate factors’ guidance of the family reunion guidance. In 2015 there were 8,000 applications for family reunification and around 5,000 grants.

There is no financial requirement that the sponsor must fulfil before the family member can apply. The applicants do not need to complete any English language or civic integration exams to apply for family reunion. Those granted leave under family reunion provisions have access to free care on the National Health Service (NHS) and the same access to education and employment as their sponsors.

Family visas

The Immigration Rules define a sponsor for a ‘family of a settled person’ visa as someone who is a British citizen, someone who is settled in the UK or has asylum or humanitarian protection in the UK. In 2015 there were 46,000 applications to join a family member already settled in the UK and around 33,000 visas granted. Applicants could be joining British citizens or settled third country nationals. Applicants can apply for a family visa if they have a partner in the UK or if they are coming to care for a child. Child applicants may apply to join settled parents in the UK. Individuals can also join their family in the UK if they are the parent, grandparent, son, daughter, brother or sister of the UK sponsor and they require long-term personal care that can only be provided by their relative in the UK.

Unlike family reunion the sponsor of a spouse or partner application must fulfil a minimum income requirement before the applicant may join them. The sponsor must be earning at

1 Data are based on applicants so cannot be broken down by sponsor type.
least £18,600 to be able to bring in a spouse or partner from outside Europe. Higher thresholds are applied to those seeking to bring non-EU dependent children to the UK:

- £22,400 for applicants with one dependent child; and
- an additional £2,400 for each further child.

There are limited exemptions to the minimum income requirement, including where the sponsor is in receipt of disability benefits.

Individuals seeking to join settled family members must in most cases prove their knowledge of the English language when they apply. This can be done by passing a test at an approved test centre. Individuals need to achieve a minimum of level A1 in the Common European Framework for Languages (CEFR). Individuals aged over 65 or with a long-term mental or physical condition are exempt from this requirement.

Individuals who join settled persons are able to work and study. Partners joining their UK sponsor do not have access to public funds while they are on limited leave. Adult dependent relatives are subject to a sponsor’s undertaking that they will be maintained and accommodated without access to public funds for five years.

Applicants are required to pay the immigration health surcharge of £200 per year, except those who are granted an adult dependent relative visa. Adult dependants are granted immediate settlement upon entry to the UK and so are not subject to the immigration health surcharge.

**Dependants of applicants on temporary work and study visas**

Dependants may accompany or join family members who apply for temporary stay in the UK for reasons such as work or study. Individuals on these routes can only sponsor partners and dependent children under the age of 18. In 2015 there were also around 46,000 applications for dependants to accompany individuals on work visas in the UK with 44,000 grants. There were around 17,000 applications for dependants to accompany individuals on student visas with 15,000 grants.

Sponsors must be able to demonstrate that they have sufficient financial resources to support their dependants.

The requirement for all dependants of those in the UK under the points-based system is that they are able to support themselves for the entire duration of their stay in the UK, without needing help from public funds. There is not a requirement to demonstrate the dependant’s English language skills upon application. However, if they wish to apply for settlement they would be required to demonstrate sufficient knowledge of the English language when they apply for settlement at a B1 CEFR level. All nationals from outside the European Economic Area (EEA) coming to the UK for a limited period but longer than six months will be required to pay an ‘immigration health surcharge’ as part of their visa application, excluding those who are exempt from this requirement (for example, refugees).

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2 See: http://www.examenglish.com/CEFR/cefr.php

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For students and those on the Youth Mobility Scheme this is £150 annually; it is £200 annually for those on other visas.

**Challenges and good practice in family reunification**

In January to May 2016 there was an inspection of family reunion procedures by the Independent Chief Inspector of Borders and Immigration. There were a number of challenges identified including:

- issues with asylum screening and retrieving interview records;
- availability of interpreters; and
- consistency around decision making.

There have also been challenges around DNA testing where the Home Office is unable to verify documents provided by the applicant.

In response to the challenges best practice guidance for asylum caseworkers has been updated and circulated. This emphasises the need to obtain full details of the claimant’s family members during the asylum process and sets out why this is important. UK Visas and Immigration (UKVI) is establishing a central interpreter capability. Plans are also being formulated to consolidate decision making for family reunion applications into one team based in the UK.

Guidance has also been issued to decision makers to clarify the grounds for refusal that apply to family reunion applications. Guidance has been revised and published to explain more clearly how and when exceptional and compassionate circumstances are to be considered, where a family reunion application is refused under the Immigration Rules.

There is a review around the policy on DNA evidence. Part of the review is whether applications can be deferred to allow DNA evidence to be submitted by the applicant, and whether the Home Office should commission such testing.
1. Overview of the situation on family reunification

Q1. Please briefly describe the basis for developing legislation/policy on family reunification in your (Member) State (for example, Directive 2003/86/EC, Art. 8, ECHR on the right to respect private and family life). (If your (Member) State distinguishes between family formation and family reunification, please provide further information here and if applicable, make such a distinction in the subsequent questions.)

The UK is not bound by the Directive 2003/86/EC.

The UK supports the principle of family unity and has several routes for families to be reunited safely. The UK’s established family reunion policy allows a spouse or partner and children under the age of 18 of those granted protection in the UK to join them here, if they formed part of the family unit before the sponsor fled their country. The family reunion policy instruction provides more detail and is available on the GOV.UK website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/541818/Family_reunion_guidance_v2.pdf

This policy has been in place since 19 November 2007 and was developed to provide a means for genuine refugees to be reunited with their immediate family members legally and safely. The policy also recognises the right to respect for family life in accordance with UK obligations under the European Convention on Human Rights (ECHR). Under this policy the UK has reunited many refugees with their immediate family and it continues to do so. The UK has granted over 22,000 family reunion visas in the last 5 years.

In addition, the UK has recently updated its family reunion policy instruction to provide further guidance to caseworkers on considering exceptional circumstances. The policy provides that where an application fails under the Immigration Rules, caseworkers consider whether there are exceptional or compassionate reasons for granting a visa outside the Immigration Rules. This is intended to cater for extended family members where there are exceptional circumstances.

In the UK the term ‘family reunion’ relates only to individuals joining someone who has been granted protection. Individuals may also apply for a family visa to join family members who are settled in the UK or are British citizens, see guidance below at:

https://www.gov.uk/browse/visas-immigration/family-visas

In addition dependants may accompany or join family members who apply for temporary stay in the UK for reasons such as work or study, see guidance below at:

Q2. Please provide an overview of recent (since 2011) changes to law, policy and/or practice in the field of family reunification in your (Member) State, covering the following.

- Current public debate on family reunification in your (Member) State (for example, on requirements for exercising the right to family reunification or other issues).

- Whether family reunification is a national policy priority currently.

- Any planned changes to law, policy and/or practice on family reunification.


- If your (Member) State has introduced a private sponsorship programme, which requires the beneficiary to be a family member of the sponsor. If yes, briefly elaborate in what ways the requirements, eligibility and access to rights differ.

Please support your answers by providing qualitative evidence, for example, from (media) reports, political debate.

Family reunion

There was a change to the family reunion policy on 22 October 2010 that set out that a former refugee or beneficiary of subsidiary protection who has acquired British citizenship cannot sponsor family members under the refugee family reunification rules. Applications from those who wish to join British citizens on family life grounds must be made under Appendix FM of the Immigration Rules. Guidance is available on GOV.UK at: https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-fm-family-members

The UK Government carefully considered the implications of the current family reunion policy during the passage of the Immigration Act 2016 through Parliament. The Government rejected proposed amendments to widen the criteria of the policy to include extended family members and to allow children to sponsor their parents. The Government made clear that widening the family reunion criteria would go beyond its international obligations and create perverse incentives for more people, particularly children, to be encouraged, or even forced, to leave their family and risk hazardous journeys to the UK to sponsor relatives. This would play into the hands of criminal gangs who exploit vulnerable people, and goes against the UK’s safeguarding responsibilities. The policy is designed to avoid inadvertently putting more people, particularly children, into harm’s way.

The debate on the amendments took place on 9 June 2016 and was recorded on the UK Parliament website, see: https://hansard.parliament.uk/commons/2016-06-09/debates/16060930000002/RefugeeFamilyReunionRules

Family visas

In July 2012 there were changes to family visas that meant that only those earning at least
£18,600 are able to bring in a spouse or partner from outside Europe. The income threshold of £18,600 is based on advice from the independent Migration Advisory Committee (MAC), and is calculated as the level at which a couple generally ceases to be able to access income-related benefits. Higher thresholds are applied to those seeking to bring non-EU dependent children to the UK:

- £22,400 for an applicant with one dependent child; and
- an additional £2,400 for each further child.

Other rules included:

- only allowing non-European Economic Area (EEA) adult and elderly dependent relatives to settle in the UK where they can demonstrate that, as a result of age, illness or disability, they require long-term personal care that can only be provided in the UK by their relative here, and requiring them to apply from overseas;
- requiring, from October 2013, all applicants for settlement to speak better English and pass the Life in the UK test;
- introducing a minimum probationary period of five years for settlement to deter sham marriages.

Since October 2013 adult migrants applying for settlement (indefinite leave to remain) in the UK have been required to meet level B1\(^3\) in speaking and listening skills and pass the new Life in the UK test. The Prime Minister announced on 18 January 2016 a new English language requirement for family route migrants seeking to extend their stay in the UK. Non-EEA national partners and parents on the family route will need to pass a speaking and listening test at level A2 in order to qualify, after two-and-a-half years in the UK, for further leave to remain on the five-year partner or parent route to settlement. It will mean that the person can engage in everyday conversation and thereby better participate and integrate in everyday life in the community. On 3 November 2016 the Government announced that the new A2 English language requirement would be introduced from 1 May 2017.

Q3. a. Please complete the Excel document in Annex 1 below (including data, as well as metadata) if you have national statistics on:

- the total number of applications for family reunification in 2011–2015 and, where available, the first half of 2016, disaggregated by the ground of residence of the sponsor (beneficiaries of international protection [i.e. refugees, BSPs, UAMs], persons admitted for remunerated activities, persons admitted for study purposes, etc.) and sex;
- the total number of accepted/rejected applications for family reunification in 2011–2015, and where available, the first half of 2016, if available disaggregated by the grounds for rejection of applications.

\(^3\) See: http://www.examenglish.com/CEFR/cefr.php
b. Please supplement the data provided above with a narrative on the profiles of TCNs residing in your (Member) State and asking for family reunification, i.e. are the sponsors mostly beneficiaries of international protection and/or other TCNs, for example, workers, students?

The largest group of applicants for family visas are for ‘family of a settled person’ visa. The sponsor could be someone who is a British citizen, someone who is settled in the UK or has asylum or humanitarian protection in the UK. In 2015 there were around 46,000 applications to join sponsors who were already settled in the UK. The data are based on applicants rather than sponsors, so it is not possible to say how many sponsors were British citizens or third country nationals.

The next largest group are those accompanying or joining individuals who hold a visa for work. There were also around 46,000 applications in 2015 for dependants to accompany or join individuals on work visas in the UK. There were around 17,000 applications to accompany or join individuals on student visas.

There were around 8,000 applications for family reunion, i.e. applications where the sponsors were beneficiaries of international protection but not British citizens. Data on family reunion applications can be found in the Home Office Immigration Statistics:


In the UK there are also data collected on ‘other dependants’. These include dependants of non-points-based system sponsors, dependants of Armed Forces, some children in the family route, dependants of NATO civilian employees. In 2015 there were around 12,000 applicants in this category. In the UK it is not possible for a child to be a sponsor.

Data from 2011 to June 2016 are in Annex 1.
2. Definition of sponsor and family members

Q4. a. Who can be a sponsor⁴ to an application for family reunification in your (Member) State (for example, UAMs, students, workers)?

Family reunion

The Immigration Rules define a sponsor for family reunification as a person who is lawfully resident in the UK, has not yet obtained British citizenship, and falls into one (or more) of the following categories:

- currently has refugee status;
- currently has humanitarian protection status;
- was admitted under the Gateway Protection Programme;
- was admitted under the Mandate Refugee Programme;
- was admitted under the Syrian Vulnerable Person Resettlement (VPR) scheme.

Sponsors who have indefinite leave to remain in the UK and refugee status or humanitarian protection, but have not yet obtained British citizenship, are eligible to sponsor family reunion applications.


Family visas

The Immigration Rules define a sponsor for ‘family of a settled person’ visa as someone who is a British citizen, someone who is settled in the UK or has asylum or humanitarian protection in the UK. While refugees may sponsor under this route, if they are not yet British citizens and they wish to sponsor individuals who formed part of their family unit prior to them fleeing their home country and seeking protection, they are more likely to use the family reunion route. The family reunion route does

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⁴ Art. 2 and 3 in Chapter I of 2003/86/EC define who can be a sponsor to an application for family reunification in the EU.
not have the income and language requirements. If a refugee has entered into a marriage or partnership after they fled their home country, and they wish to sponsor their partner or other members of a family that has been established post-flight, they would have to apply for a family visa.

**Points-based system sponsors**

Most migrants coming to the UK on a points-based system (PBS) visa i.e. on work or study visas (Tiers 1 and 2 Work, Tier 4 Student, Tier 5 Temporary worker) can also sponsor dependants – partners and dependent children under the age of 18.

**Student sponsor**

If an individual is granted leave under Tier 4 (Student) of the PBS and meets one of the below criteria then they may apply to bring a dependant to the UK:

- they are sponsored by a higher education institution on a course at level 7 on the Ofqual register or above that lasts one year or more;
- they are a new government-sponsored student on a course that lasts longer than six months;
- they are applying under the doctorate extension scheme.

**Worker (Tier 2) sponsor**

An individual who is granted a Tier 2 visa under the PBS is entitled to be joined by their dependants. Primarily to be granted this visa, an individual must:

- have been offered a skilled job in the UK;
- be paid an appropriate salary; and
- be sponsored.

**b. Does the national law of your (Member) State allow beneficiaries of subsidiary protection (BSPs) to apply for family reunification? Y/N**

If yes, please elaborate below. If no application procedure is made available to BSPs, how does your (Member) State ensure that the right to family life (Art. 8, ECHR) of BSPs is respected?

Yes. Those granted humanitarian protection (subsidiary protection) in the UK are entitled to sponsor a spouse or partner and children under 18 who formed part of the family unit before the sponsor fled their country on the same basis as those granted refugee status.

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5 See: https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels
6 Currently BSPs are not covered by Directive 2003/86/EC.
Q5. Does your (Member) State extend the scope of family reunification beyond nuclear/core members of the family, i.e. parents, adult children, non-married partners, etc.? Y/N

If yes, does your (Member) State extend the scope of family reunification to the following family members.

Parents? Y/N

Refugee sponsors

No. The family reunion policy only extended to a spouse or partner and children under 18 who formed part of the family unit before the sponsor fled their country.

Student, worker sponsor

No.

Family member living permanently in the UK

Yes. Individuals can also join their family in the UK if they are the parent, grandparent, son, daughter, brother or sister of the UK sponsor and they require long-term personal care that can only be provided by their relative in the UK.


Adult children? Y/N

Refugee sponsors

Adult children (over the age of 18) may be able to join their parents under the ‘exceptional circumstances and compassionate factors’ section of the family reunion guidance. The following circumstances may apply to the individual:

- their immediate family, including siblings aged under 18 qualify for family reunion and intend to travel, or have already travelled, to the UK;
- they would be left alone in a conflict zone or dangerous situation;
- they are dependent on immediate family in the country of origin and are not leading an independent life;

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7 Art. 4 in Chapter II of Directive 2003/86/EC stipulates that (Member) States shall authorise the entry and residence of certain family members, including the sponsor’s spouse and minor (including adopted) children of the sponsor and/or his/her spouse.
there are no other relatives to turn to and they would therefore have no means of support and would likely become destitute on their own.

Decisions made outside of the Immigration Rules must be referred by the caseworkers to the Referred Casework Unit (RCU). A full recommendation must be included based on an assessment of the application and all the evidence considered.


**Student, worker sponsor**

No, except for children who turned 18 while they were in the UK as a dependant.

**Family member living permanently in the UK**

Yes. Individuals can also join their family in the UK if they are the parent, grandparent, son, daughter, brother or sister of the UK sponsor and they require long-term personal care that can only be provided by their relative in the UK.


**Same-sex partners who are married? Y/N**

**Refugee sponsors**

A non-married or same sex partner may act as a sponsor if they meet the following criteria:

- the applicant is the unmarried or same-sex partner of a person who currently has refugee status in the UK granted under the Immigration Rules on or before 9 October 2006; and
- the parties have been living together* in a relationship akin to either a marriage or a civil partnership that has subsisted for two years or more; and
- the relationship existed before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and

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10 This date is important as this is the date from which civil partnerships were recognised in the UK and the necessary provisions brought into the Immigration Rules. Any application for family reunion from a same sex couple before this date will be considered outside the Rules (if there are any outstanding).
- the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of the Immigration Rules or Article 1F of the Geneva Convention if they were to seek asylum in their own right; and

- each of the parties intends to live permanently with the other as their unmarried or same-sex partner and the relationship is subsisting; and

- the parties are not involved in a consanguineous relationship (blood relative) with one another; and

- if seeking leave to enter, the applicant holds a valid UK entry clearance for entry in this capacity.

Caseworkers must refer decisions to issue a visa for family reunion outside of the Immigration Rules to the RCU. A full recommendation must be included based on an assessment of the application and all the evidence considered.

*The parties do not have to have been living together if the caseworker is satisfied that living together would have put them in danger.

**Student, worker, settled person sponsor**

Yes. If the applicant is a partner but not married or in a civil partnership then they will need to provide documents to show that they have been living in a relationship akin to marriage/civil partnership for a period of at least two years. Documents used to support the application should cover this whole time period and only be from official sources such as utility bills or National Health Service (NHS) registration.

**Same-sex partners who are registered? Y/N**

As above

**Non-married partners? Y/N**

As above

‘Dependant’ persons, i.e. persons receiving legal, financial, emotional or material support by the sponsor or by his/her spouse/ partner (other than those mentioned above[^11])? Y/ N

**If yes, please specify how the concept of dependency[^12] is defined in the relevant**

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[^11]: I.e. other than those referred to in Art. 4 of Directive 2003/86/EC.

[^12]: According to the UN High Commission for Refugees (UNHCR) dependent persons should be understood as persons who depend for their existence substantially and directly on any other person, in particular because of economic reasons, but also taking emotional dependency into consideration. Dependency should be assumed when a person is under the age of 18, and when that person relies on others for financial support. Dependency should also be recognised if a person is disabled and not capable of supporting him/herself. The dependency principle considers that, in most circumstances, the family unit is composed of more than the customary notion of a nuclear family (husband, wife and children under the age of 18). This principle recognises that familial relationships are sometimes broader than blood lineage, and that in many societies
provisions/practice.

Refugee, student, worker sponsors

No.

Family member living permanently in the UK

Yes. Individuals can also join their family in the UK if they are the parent, grandparent, son, daughter, brother or sister of the UK sponsor and they require long-term personal care that can only be provided by their relative in the UK.


Other (please specify, for example, foster children, applicants in polygamous and/or proxy marriages)? Y/N

If yes, please elaborate on each of the categories mentioned above.

Family member living permanently in the UK

Yes. Individuals can also join their family in the UK if they are the parent, grandparent, son, daughter, brother or sister of the UK sponsor and they require long-term personal care that can only be provided by their relative in the UK.


extended family members such as parents, brothers and sisters, adult children, grandparents, uncles, aunts, nieces and nephews are financially and emotionally tied to the principal breadwinner or head of the family unit. Further information is available at: http://www.unhcr.org/3b30baa04.pdf, as well as in the Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification mentioned in Section 1 in the first part of this document.
3. Requirements for exercising the right to family reunification

Q6. Does your (Member) State (plan to) impose the following requirements\(^{13}\) for exercising the right to family reunification (please also indicate if exemptions can be made in individual cases based on, for example, hardship clauses).

**Accommodation suitable for the size of the family, as well as meeting health and safety standards? Y/N**

**Refugee, student, worker, sponsor**

There are no current plans to introduce specific accommodation requirements. However, the policy is regularly reviewed.

**Settled person sponsor**

The sponsor must be able to prove that they are able to support and accommodate and care for an adult dependent relative.\(^ {14}\)

**Healthcare insurance? Y/N**

**Refugee sponsor**

No. There are no current plans to impose insurance requirements in respect of healthcare. Those granted under family reunion provisions have access to free care on the National Health Service (NHS).

**All other sponsors**

Yes. All nationals from outside the European Economic Area (EEA) coming to the UK for a limited period of longer than six months will be required to pay an ‘immigration health surcharge’ as part of their visa application, excluding those who are exempt from this requirement (for example, refugees). This mandatory payment of £200 per year (£150 per year for students) enables dependants to access the NHS in the same

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\(^{13}\) Art. 7(1) of Directive 2003/86/EC stipulates that Member States may require the person who has submitted the application to provide evidence that the sponsor has: accommodation suitable for the size of the family, as well as meeting health and safety standards; sickness insurance; and sufficient resources to provide for him/herself and his/her family.

\(^{14}\) See: [https://www.gov.uk/join-family-in-uk/eligibility](https://www.gov.uk/join-family-in-uk/eligibility)
way as permanent UK residents. Adult dependent relatives are granted immediate settlement upon entry to the UK and so are not subject to the immigration health surcharge.

Sufficient financial resources to provide for the sponsor and his/her family? Y/N

**Refugee sponsor**

There are no current plans to introduce specific accommodation requirements. However, the policy is regularly reviewed

**Student sponsor**

Yes. The requirement for all dependants of those in the UK under the points-based system (PBS) is that they are able to support themselves for the entire duration of their stay in the UK, without needing help from public funds.

The ‘maintenance requirements’ for a dependant of a Tier 4 (General) student will depend on the following circumstances:

- the length of the student’s course;
- where the student will be studying in the UK;
- whether the student is being granted at the same time or has leave to remain on the doctorate extension scheme.

If the student is studying in London then the dependant must have at least £845 per month to support themselves, or £680 per month if the course is outside of London. This is required for the duration of the student’s course, up to a maximum of nine months. Dependants of individuals on the doctorate extension scheme are only required to demonstrate maintenance for a maximum period of two months. This amount will be in addition to the amount that the student is required to have, to demonstrate that they can support themself. The applicant must be able to prove that they have the money, and that it has been in their bank account or their dependant’s for at least 28 days before they apply.

For example, a Tier 4 (General) student applying to study in London at the same time as their spouse and two children would need to show that they have £845 per month for their spouse and a further £845 per month for each of their children, in addition to £1,265 per month required for their own support. In total, the family will require evidence that they hold £3,800 in available funds per month, up to a maximum of nine months.

**Worker sponsor**

Yes. A dependant of a Tier 2 worker must have £630 in order to show that they can support themselves (maintenance requirement). This can be met by having:

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• savings of £630, which must have been held for at least 3 months prior to the date of the application; or

• a written statement from the organisation that is sponsoring the Tier 2 worker outlining that if it is necessary, they will maintain and accommodate the family member for a month.

In addition to ‘maintenance requirements’ for all dependants, the Tier 2 worker will also have to demonstrate that they hold £945 in available funds.

**Settled person sponsor**

If the individual is planning to join their partner in the UK through this route then the sponsor must meet a minimum income requirement and provide evidence that they have a gross annual income of at least:

• £18,600;

• £22,400 for a partner and first child; and

• £2,400 per year (before tax) for each additional child.

The minimum income requirement can be met through gross annual income alone or in combination with savings of £16,000 with additional savings of an amount equivalent to 2.5 times the amount that is the difference between the gross annual income and the total amount needed to meet the relevant minimum income requirement. Income from specified employment or self-employment must be from the partner and not the applicant in entry clearance applications.

Where the applicant’s partner is in receipt of a specified disability benefit or allowance, they are exempt from the minimum income requirement and must instead meet a maintenance requirement proving that they are able to maintain and accommodate themselves and any dependants adequately in the UK without recourse to public funds.

An applicant does not have to meet the minimum income requirement if they are coming to the UK to look after a child under 18 years of age or they are coming to the UK to be cared for.

Sponsors of adult dependent relatives must sign a sponsorship undertaking that they will maintain and accommodate their relative without recourse to public funds for a period of five years after entry.

**Q7. a. Does the national law of your (Member) State require TCNs to comply with**

16 See: [https://www.gov.uk/join-family-in-uk/eligibility](https://www.gov.uk/join-family-in-uk/eligibility) and for more detail see the Immigration Directorate instruction.
any integration measures before and/or after admission? Y/N

If yes, are TCNs required to comply with the following integration measures?

Civic integration exams? Y/N

If yes, please specify the following.

When the civic integration exam(s) takes place (i.e. before admission, after admission, before and after admission)?

Refugee

When applying for family reunion there is no requirement for applications to complete a civic integration exam.

Student, worker and settled

When applying to accompany those coming to the UK for work or study, or applying to join a settled person a civic integration test is NOT required.

However, when applying for settlement applicants will be required to sit and pass the following test at settlement (in accordance with the requirements of the rules at the time of application).


What knowledge and skills are required from applicants in order to pass the exam(s)?

- For the Life in the UK test applicants must answer 24 questions on British traditions and customs. They can use the official handbook on Life in the UK to prepare for the test. To pass applicants must get 75 per cent of the questions right.


Is any support provided to them during preparation (for example, preparatory classes)?

Candidates for the Life in the UK test can use the official handbook on Life in the UK to prepare for the test. See: [official handbook for the Life in the UK Test](https://www.gov.uk/life-in-the-uk-test).

If/what costs are incurred by applicants?

Costs for the Life in the UK test are met by the applicants. The Life in the UK test costs £50.

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17 Art. 7(2) of Directive 2003/86/EC stipulates that Member States may require TCNs to comply with integration measures, in accordance with national law.
Language tests? Y/N

If yes, please specify the following.

When the language test(s) takes place (i.e. before admission, after admission, before and after admission)?

Refugee

People applying for family reunification will not need to prove their English language skills.

Dependants of student, worker sponsor

Applicants do not need to demonstrate their English language skills upon application. However, if they wish to settle in the UK the applicant will be required to demonstrate sufficient knowledge of the English language when they apply for settlement at a B1 Common European Framework for Languages (CEFR) level.\(^\text{18}\)

- For knowledge of English see: [https://www.gov.uk/english-language/overview](https://www.gov.uk/english-language/overview).

Settled person\(^\text{19}\)

Individuals seeking to join settled family members may need to prove their knowledge of the English language when they apply. This can be done by passing a test at an approved test centre. Individuals need to achieve at least CEFR level A1.\(^\text{20}\)

Alternatively, individuals can give evidence that they have an academic qualification that both:

- was taught or researched in English; and
- is recognised by UK NARIC (the designated UK national agency for the recognition and comparison of international qualifications and skills) as equivalent to a bachelor’s or master’s degree or PhD.

Nationals of specific majority English speaking countries do not need to prove their knowledge of English.\(^\text{44}\)

Individuals will not be required to prove their knowledge of English if:

- they are aged 65 and over;
- they are unable to because of a long-term physical or mental condition;

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• they can show that there are exceptional circumstances that prevent them from meeting the requirement.

Exempt individuals must explain why they cannot prove their knowledge of English in their application and give evidence to support this.

**What knowledge and skills are required from applicants in order to pass the test(s)?**

Individuals seeking to join settled family members may need to prove their knowledge of the English language when they apply. This can be done by passing a test at an approved test centre. Individuals need to get at least CEFR level A1.

Those applying for settlement in the UK will need to demonstrate English language to at least CEFR B1. To demonstrate English language candidates can have an English qualification at B1, B2, C1 or C2 level or a degree taught or researched in English.

For knowledge of English see: [https://www.gov.uk/english-language/overview](https://www.gov.uk/english-language/overview).

**Is any support provided to them during preparation (for example, preparatory classes)?**

Online resources are available to help with preparation, see:

[http://www.trinitycollege.com/site/?id=3526](http://www.trinitycollege.com/site/?id=3526)

**If/what costs are incurred by applicants?**

The cost of the test is £150.

**Other integration measures (please specify)? Y/N**

**If yes, please specify what these measures entail and when they take place**

**Refugee, student, worker, settled person sponsor**

No

**If the national law of your (Member) State does not currently require TCNs to comply with any of the above measures – any planned changes? Y/N**

**If yes, please provide further information below.**

No. There are no planned changes.

b. Please specify if any negative consequences (for example, refusal to issue a permit or withdrawal of the existing permit) are foreseen for family members not complying with the above-mentioned integration measures – both according to law, as well as how this is applied in practice.

**Settled person sponsor**
Individuals who are required to pass the knowledge of English test, but who have not passed the test, will not be granted a visa to allow them to join their family.

Q8. Does your (Member) State set a waiting period before a sponsor’s family members can reunite with them? Y/N

No

If yes, how long is the waiting period? Can an application be submitted before the period has expired? Are there any exemptions granted in individual cases?

Refugee, student, worker, settled person sponsor

N/A

Q9. Does the national law of your (Member) State provide for a rejection of an application for entry and residence of family members on grounds of public policy, public security or public health? Y/N

If yes, please provide data (if available) on the number of times your (Member) State has invoked this provision(s) since 2011.

Refugee, student, worker, settled person sponsor

Yes. An applicant may be refused leave to remain in the UK if their presence is not conducive to the public good (Immigration Rules, Section 9). An example of this may be if an applicant has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least four years.

See guidance on general grounds for refusal on GOV.UK: https://www.gov.uk/government/collections/general-grounds-for-refusal-modernised-guidance

Data are not publically available on the number of times this provision has been invoked since 2011.

Q10. a. In addition to any information you have already provided above, does your (Member) State apply the following provisions concerning the more

21 Art. 8 of Directive 2003/86/EC stipulates that Member States may require the sponsor to have stayed lawfully on the territory for a period not exceeding two years (or three years by derogation in specific circumstances) before having his/her family members join him/her.

22 Art. 6 of Directive 2003/86/EC stipulates that Member States may reject an application for entry and residence of family members on grounds of public policy, public security or public health.
favourable family reunification rules for refugees?\(^{23}\)

Application and possible extension of the grace period of (minimum) three months before the requirements for exercising the right to family reunification apply?\(^{24}\) Y/N

If yes, is this grace period of (minimum) three months extended and if so, for how long?\(^{25}\) Y/N

There is currently no grace period before the requirements for exercising the right to family reunification apply.

Restriction to relationships established before entry into the (Member) State?\(^{26}\) Y/N

If yes, please specify.

Yes. To qualify under family reunion provisions the family members seeking entry must have formed part of the family unit before the sponsor fled their country to claim asylum.

Unmarried partners must be able to demonstrate they have been in a relationship akin to marriage or civil partnership for at least two years.

Application of a wider definition of family members (going beyond parents) when it comes to UAMs?\(^{27}\) Y/N

If yes, please specify.

The UK does not permit children to act as sponsors for family reunification applications.

Have any of these family reunification rules for refugees been changed recently? Y/N

If yes, please provide further information on these changes below.

No recent changes.

b. If applicable, does your (Member) State apply similar rules for the family reunification of BSPs as refugees, i.e. in relation to eligible family members, waiting period and requirements for family reunification? Y/N

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\(^{23}\) Art. 9–12 in Chapter V of Directive 2003/86/EC set out more favourable conditions for family reunification of refugees.

\(^{24}\) Art. 7(1) of Directive 2003/86/EC.

\(^{25}\) Art. 7(1) of Directive 2003/86/EC.

\(^{26}\) Art. 9(2) of Directive 2003/86/EC.

\(^{27}\) Art. 10(3)(b) of Directive 2003/86/EC.
If yes, please cross-refer to the information you have provided previously on the more favourable rules applicable to refugees, stating that similar rules apply to BSPs.

If no, please explain how the rules differ for BSPs referring to the different topics covered previously (for example, eligible family members, waiting period and requirements for family reunification).

The UK does not use the classification of subsidiary protection and instead uses the ‘humanitarian protection’ classification. Both refugees and those granted humanitarian protection have equal rights to family reunification.

Q11. Are there any differences in the requirements to be met for exercising the right to family reunification (under Directive 2003/86/EC or national law in some cases) in comparison to a similar request governed by national law by a (Member) State national who has not exercised his/her free movement rights (non-mobile EU nationals)? Overall, to what extent are these requirements for exercising the right to family reunification under national law more or less favourable than those covered by Directive 2003/86/EC?

The UK is not bound by the 2003/86/EC Directive.

Q12. a. Please indicate any challenges experienced by i) sponsors and/or family members associated with accessing the right to family reunification, and/or ii) your (Member) State in the implementation of any of the above requirements for family reunification (for example, based on existing studies/evaluations/other sources or information received from relevant authorities and stakeholders) and how these can be overcome.

Between January and May 2016 there was an inspection of family reunion applications by the Independent Chief Inspector of Borders and Immigration. A number of challenges were identified.

- There have been challenges around asylum screening and the availability of interview records. Best practice guidance for asylum caseworkers has been updated and circulated, emphasising the need to obtain full details of the claimant’s family members during the asylum process and setting out why this is important.

- There were challenges around access to interpreters when interviewing family reunion applicants. To help with this UK Visas and Immigration (UKVI) is establishing a central interpreter capability. Plans are being formulated to consolidate decision making for family reunion applications into one team based in the UK.

- Challenges were identified around DNA testing where the Home Office is unable to verify documents provided by the applicant. The policy regarding DNA evidence is being reviewed by the Home Office, and the
outcome of the review should be known by the end of the year (2016). Part of the review is the consideration of allowing applications to be deferred to allow DNA evidence to be submitted, and if the Home Office should commission such testing.

- There were other challenges in terms of decision making. Guidance relating to how decisions are recorded (issue note and refusal notices) is being reviewed and will be issued to decision makers later this year (2016). This will make clear how to refer to evidence that has been considered, and which evidence needs to be retained. The UKVI’s International Casework and Quality Assurance Team has been set up, and part of the team’s remit is introducing formal quality assurance processes. Guidance has also been issued to decision makers to clarify that the general grounds for refusal apply to family reunion applications.

Guidance has been revised and published to explain more clearly how and when exceptional and compassionate circumstances are to be considered. Guidance on how to consider applications from spouses who are aged under 18 is currently being reviewed and will be published later in the year (2016).

The full report from the inspection and the Home Office response can be found below.

The Independent Chief Inspector for Borders and Immigration on the handling of family reunion applications (2016), see:


For the Home Office response to the recommendations made following the Independent Chief Inspector for Borders and Immigration report on the handling of family reunion applications, see:


A report by the British Red Cross has also made recommendations on the family reunion process in the UK including:

- simplifying the application form;
- providing consistent, easily accessible guidance; and
- being specific and coherent about documentation and eligibility requirements.

For the full report British Red Cross report (2015) on family reunion process, see:

http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf

b. Please provide any examples of proven (for example, through
Best practice guidance for asylum caseworkers has been updated and circulated, emphasising the need to obtain full details of the claimant’s family members during the asylum process and setting out why this is important.

UKVI is establishing a central interpreter capability. Plans are being formulated to consolidate decision making for family reunion applications into the Asylum Directorate within the UK.

Guidance has also been issued to decision makers to clarify that the general grounds for refusal apply to family reunion applications. Guidance has been revised and published to explain more clearly how and when exceptional and compassionate circumstances are to be considered.

For the Home Office response to the recommendations made following the Independent Chief Inspector for Borders and Immigration report on the handling of family reunion applications, see:


Q13. Is any research (conducted by relevant authorities, academics, NGOs, etc.) on the following available in your (Member) State?

Effects of the requirements for family reunification as applied in your (Member) State on the right to family reunification and integration of TCNs? Y/N

Effects of the integration measures as applied in your (Member) State on the right to family reunification and integration of TCNs? Y/N

Effects of the minimum age requirement\textsuperscript{28} as applied in your (Member) State on the prevention of forced marriages or any misuse of family reunification (for example, marriages of convenience)? Y/N

If yes to any of the above, please briefly describe the main findings and conclusions of this research and provide a full reference to the source (for example, based on existing studies/evaluations/other sources or information received from relevant authorities and stakeholders).

A recent 2016 report by the British Red Cross made recommendations to the Home Office.\footnote{Art. 4(5) of Directive 2003/86/EC stipulates that Member States may require the sponsor and his/her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/her, in order to ensure better integration and to prevent forced marriages.}
Office in relation to the requirements for family reunification. The recommendations were that the Home Office should:

- consider and address documentation challenges relating to specific countries of origin;
- not require refugees who have clearly mentioned family members at their asylum claim to provide a high threshold of evidence of ‘subsisting relationship’ or dependence;
- be flexible and responsive in guidance for atypical cases including those involving stepchildren, siblings, de facto adoption and adoption;
- make the submission process safer for applicants; and
- give more opportunity to applicants to submit further evidence for their application if the supporting documentation is not sufficient to grant family reunion visas.

The British Red Cross studied the family reunion process and produced the following report:

http://www.redcross.org.uk/~/media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf

In 2012 the AIRE centre published a study on family reunification requirements and whether these were barriers or facilitators to integration. The review found that there was little UK literature that directly considered the link between family reunification and integration. It reported that although most categories of family migrants have the right to work in the UK, in practice there are barriers such as language and employers being put off by unstable immigration status prior to settlement. There was no evidence from either the literature review or primary research to suggest that the requirements for family reunification facilitate access to education in the UK, or had any long-term impact on language skills, see:


In 2011 the Home Office published a report on the available evidence on marriage-related migration and settlement. This includes the data on the general trends in spousal settlement and marriage related migration by country of origin, see:

4. Submission and examination of the application for family reunification

Q14. Please describe the procedure(s) that apply to the sponsor or his/her family members when an application for entry and residence for the purpose of family reunification is submitted, as follows.

a. Who is the formal party to an application for family reunification in your (Member) State: the sponsor or his/her family members?29

Refugee sponsor

The application for family reunion should be made by the individuals seeking to join their family member in the host country. Primarily this application should be made from outside the UK.

See the guidance for applying for family reunion:

https://www.gov.uk/settlement-refugee-or-humanitarian-protection/family-reunion

Further guidance is in the asylum policy instruction on family reunion:

https://www.gov.uk/settlement-refugee-or-humanitarian-protection/family-reunion

Student, worker, settled person sponsor

Indians applying to join a settled family member should do so outside of the UK. It is the individual rather than the sponsor who applies. Where the applicant is a child under the age of 16 the parent can sign and submit the application but the application is made in the child’s name.

Those applying for work or study visas should apply for their dependant’s visa at the same time as their own visa, see:


29 Art. 5 of Directive 2003/86/EC specifies that Member States determine whether, in order to exercise the right to family reunification, an application for entry and residence must be submitted to the competent authorities by the sponsor or his/her (family) members.
b. If the sponsor’s family members must submit an application for family reunification, where can this application be submitted (for example, the consulate of the [Member] State abroad, possibility to submit the application in the [Member] State)?

Refugee sponsor

Primarily, the application should be made from outside the UK using the online application form, with the exception of individuals from North Korea, who must complete an application form and attend the British Embassy in Pyongyang as they cannot apply online.

An application may also be made from within the UK by writing to UK Visas and Immigration (UKVI).

Student, worker sponsor

Family members applying from outside the UK must do so online. However, if individuals are applying from North Korea they must complete an application form and attend the British Embassy in Pyongyang as they cannot apply online.

If the application is to be made whilst in the UK, it can be made online, by post or in person. The sponsor should apply for their dependant’s visas at the same time as the sponsor extends or switches their visa. Individuals cannot apply in the UK as dependants if they have a standard visitor visa.

Settled person sponsor

Individuals applying to join their family through this route must apply from outside the UK.

If an individual is already in the UK with another visa and they want to switch into a ‘dependant’ category with their family member, then they must apply to do so. This process has slightly different criteria and fees.  

30

c. What documentary evidence is required from the applicant to confirm i) his/her identity and ii) the family relationship?

Refugee sponsor

There is no requirement in the Immigration Rules for specified evidence to support a family reunion application; the onus is on the applicant and their sponsor to provide sufficient evidence to prove their relationship and satisfy the caseworker that they are related as claimed.

Applicants could include any number of documents to support their claim that they are related. This could be:

30 See: https://www.gov.uk/remain-in-uk-family/overview

Family reunification of Third Country Nationals in the European Union
Family reunification of Third Country Nationals in the European Union

- marriage certificates;
- traditional marriage ceremony documents;
- documents relating to accommodation or joint purchases;
- DNA tests (at the applicant’s expense and from an organisation accredited by the UK Ministry of Justice – HM Courts and Tribunal Service);
- birth certificates;
- adoption orders;
- original letter from UKVI or Immigration Enforcement (IE) confirming that the sponsor has leave to remain and status as claimed in the UK;
- family photographs;
- wedding photographs;
- wedding invitations;
- witness statements (from the sponsor and applicant, wedding guests, family members, or person who conducted the ceremony);
- communication records (telephone records, emails and letters for the period they have been apart, or social media messages);
- any other evidence indicating the relationship is as claimed.

**Student, worker sponsor**

Individuals seeking to join their family member in the UK will need to demonstrate their relationship if their last grant of leave to remain was not as that family member’s dependants. For those who are married or in a civil partnership, a marriage or civil partnership certificate will be required to support the application. If the applicant is a partner but not married or in a civil partnership then they will need to provide documents to show that they have been living in a relationship akin to marriage/civil partnership for a period of at least two years. Documents used to support the application should cover this whole time period and only be from official sources such as utility bills or National Health Service (NHS) registration.

The following documents are recommended for partners and (children):

- marriage or civil partnership certificates;
- bank statements;
• council tax/bills;
• medical registration;
• utility bills;
• full birth certificate showing both parents’ names (children).

Settled person sponsor

Applicants must present their passport to confirm their identity. Evidence of the relationship between sponsor and applicant could be a letter from the sponsor confirming their relationship and that they are supporting their application, along with copies of:

• birth certificate or adoption certificate;
• marriage certificate or civil partnership certificate;
• death or divorce certificate;
• photographs of a wedding, civil partnership ceremony or other time spent together;
• phone records;
• emails, letters, cards.

d. What methods of investigation are employed by the competent authorities in your (Member) State in the absence of (reliable) documentation?

Where original documents are not available to submit with any application the onus is on the applicant to provide a reasonable alternative or an explanation of their absence and to satisfactorily demonstrate that they are related, or in a relationship as claimed, to their sponsor.

Caseworkers must also take into account any other evidence available to the Home Office as part of any other application. For example:

• evidence submitted as part of the sponsor’s asylum claim;

• witness statements;
• asylum interview; or
• evidence from any appeal hearing.

Caseworkers may also ask for further evidence by contacting the applicant’s legal representative or if unrepresented the applicant or sponsor. It may be appropriate to arrange an interview to test the evidence carefully and put any discrepancies to the applicant or the sponsor. Caseworkers may defer the application and make further enquiries to the Evidence and Enquiries Unit for evidence that the relationship is as claimed.

Q15. Please describe the procedure(s) that apply to family members when an application for entry and residence for the purpose of family reunification is submitted, as follows.

a. What is the procedure in place in your (Member) State to verify that any extended family members have fulfilled the requirements for family reunification (for example, dependency)? At what stage(s) of the examination procedure is this verified?

Are there any exemptions from fulfilling these conditions and if yes, on what grounds are they granted?

Refugee

Extended family members are not entitled to family reunification. Cases may be considered for leave to remain in the UK outside the Immigration Rules.

Settled person

The criteria for extended family members to join family under this route is that they must be dependent on a parent, grandchild, brother, sister, son or daughter who is living permanently in the UK.

As a dependent adult coming to be cared for, they must be able to prove that:

• they need long-term care to do everyday personal and household tasks because of illness, disability or their age;
• the care they need is not available or affordable in the country they live in;
• the person they will be joining in the UK will be able to support, accommodate and care for them without claiming public funds for at least five years;
• they are over 18.
b. Please describe the procedure in place in your (Member) State to verify that the following requirements for family reunification have been fulfilled.

Please specify how the health and safety standards, as well as the size of the accommodation are determined as suitable in practice.

Refugee, student, worker sponsor

N/A

Settled person

N/A

Please specify the conditions under which sponsors have access to healthcare insurance (for example, by having employment/self-employment or is this access automatic)?

Refugee, student, worker, settled person sponsor

N/A

Please specify the following in relation to the minimum income requirement sponsors must meet in your (Member) State.

The amount of the minimum income requirement in the relevant currency and year.

Refugee sponsor

N/A

Student sponsor\(^{32}\)

Each family member is required to demonstrate that they have either £845 a month if the student’s course is in London or £680 per month if the student’s course is outside London. This monthly amount must be demonstrated for the duration of the student’s course up to a maximum of nine months. This amount will be in addition to the money that the sponsor must have in order to demonstrate that they are able to support themself.

The sponsor will have to demonstrate that they can cover the course fees for at least a year and that they have either £1,265 per month if they are studying in London, or £1,015 per month if they are studying outside London, to cover their own living costs.\(^{33}\) This must also be shown for up to a maximum of nine months.

Nationals from certain countries identified as ‘low risk’ who meet certain criteria will

\(^{32}\) Points-based system (dependants) guidance.

\(^{33}\) Point 162 of the Tier 4 migrant guidance.
not be required to submit the necessary bank details to demonstrate that they can meet these criteria. However, they do still need to confirm that they are able to meet the criteria and may be asked to provide the necessary documentation in some cases.\textsuperscript{34}

**Worker sponsor**

Yes. A dependant of a Tier 2 worker must have £630 in order to show that they can support themselves (maintenance requirement). This can be met by either:

- having savings of £630, which must have been held for at least 3 months prior to the date of the application; or
- a written statement from the organisation that is sponsoring the Tier 2 worker outlining that if it is necessary, they will maintain and accommodate the family member for a month.

In addition to ‘maintenance requirements’ for all dependants, the Tier 2 worker will also have to demonstrate that they hold £945 in available funds.\textsuperscript{35}

It should also be noted that in addition to being able to demonstrate that dependants have sufficient savings to support themselves, there is also an upfront fee that must be paid per dependant of approximately £412.

**Settled person**

If the individual is planning to join their partner in the UK through this route then the couple must meet a minimum income requirement and provide evidence they have a gross annual income of at least:

- £18,600;
- £22,400 for a partner and first child; and
- another £2,400 per year (before tax) for each additional child.

It should also be noted that in addition to being able to demonstrate that dependants have sufficient savings to support themselves, there is also an upfront fee that must be paid per dependant, depending on the type of application:

- joining a partner or parent, or coming to look after a child – £1,195;
- an adult who needs to be looked after by a relative – £2,676.

\textsuperscript{34} Criteria for ‘low risk’ nationals can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/515465/Tier-4-of-the-points-based-system-v36.0.pdf

\textsuperscript{35} Points-based system (dependants) guidance.
If your (Member) State sets a different income requirement depending on the type of family member being reunited (for example, minor children).

See above.

The reference period over which this requirement is considered.

N/A

How any past/future income of the sponsor is evaluated in practice?

See above

Whether any exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification?

N/A

At what stage(s) of the examination procedure are the above requirements verified?

On consideration of the application.

c. Please describe the procedure in place in your (Member) State to ensure integration measures have been complied with, for example, if an application form for civic integration exam(s)/language test(s) must be submitted to the authorities. Please specify what exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification.

Refugee, student, worker sponsor

See details in Q7.a. Civic integration examples and language tests are not required on entry.

People applying for settlement do not need to prove their knowledge of English if they are:

- aged 65 or over;
- unable to, because of a long-term physical or mental condition (in which case they must provide a letter from a doctor confirming their physical or mental condition).

Settled person sponsor

The applicant must provide evidence that they have passed the necessary knowledge of English test as detailed in Q7.a

d. If the above conditions are not (completely) fulfilled, how does your (Member)
State guarantee that individual circumstances are taken into account (for example, nature and solidity of the person’s family relationship)?

Where an application falls to be refused under the Immigration Rules, caseworkers must consider whether there are individual compelling or compassionate circumstances that mean the UK should grant entry clearance outside the Immigration Rules. See section 14 in link below:


e. What is the procedure in place in your (Member) State to verify whether or not the family member(s) constitute a threat to public policy, public security or public health?

Security and identity checks will be made on the sponsor and the family members applying to join them, see asylum policy instruction – Considering family reunion applications:


f. How does your (Member) State define the term ‘minor child’ and how are the best interests of the child taken into account during the examination of the application for family reunification?

A ‘minor child’ is under 18 years old. See asylum policy instruction – Application in respect of children:


g. Please describe what is involved in an assessment for family reunification where children are concerned, for example, DNA testing. At what stage(s) of the examination procedure is this assessed?

The requirements for entry clearance or leave to remain as a child for the purpose of family reunion are set out in paragraphs 352D or 352FG of the Immigration Rules. When considering applications under these rules caseworkers must be satisfied that all the following criteria are met:

- the sponsor is the child’s parent;
- the child is under the age of 18 at the time of the application – where a child reaches the age of 18 after such an application has been lodged, but before it

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36This is laid down in Article 17 of Directive 2003/86/EC, as well as the principles of effectiveness and proportionality (as interpreted by the Court of Justice of the European Union (CJEU) in K. and A., paragraph 60 and O.S and L, paragraph 81) and the EU Charter of Fundamental Rights (O.S. and L, paragraphs 77, 78 and 80).

37Art. 5 of Directive 2003/86/EC.
has been decided, the caseworker must consider the applicant’s eligibility under paragraph 352D of the Immigration Rules as if the applicant was still under 18:

- the child is not leading an independent life;
- the child is not married or in a civil partnership, or has not formed an independent family unit.

See asylum policy instruction – Definition of a child:


- The onus is on the applicant to provide evidence to satisfy the caseworker that they are a child38 and are related as claimed to the refugee sponsor in the UK. This can include the submission of a DNA test; this will be at the applicant’s expense. See the asylum policy instruction – DNA testing and evidence:


Q16. Taking the different steps above into account, what is the duration of the procedure deciding on an application for family reunification in your (Member) State – both according to law and in practice?

Legal time limit for deciding upon an application (if any)?

No legal time limit – UKVI service standards can be found on gov.uk:

https://www.gov.uk/government/organisations/uk-visas-and-immigration/about/about-our-services

For example, for family reunion applications from outside the UK (which is entry clearance to come to the UK to settle with family) 95 per cent of settlement applications are processed within 12 weeks of the application date and 100 per cent within 24 weeks of application date (where 1 week is 5 working days).

Average duration of the procedure in practice?

Average consideration time for applications for entry clearance for family reunion in 2015 was 40 days.

Have any specific measures been taken by your (Member) State to shorten processing times?

38 Where the applicant is a child in practice the sponsor would provide this evidence and pay any costs.
Plans are being formulated to consolidate decision making for family reunion applications into the Asylum Directorate based in the UK. Once this has happened, decision makers will have easier access to the initial application of the family reunion sponsor. Prior to decision making being consolidated in the UK, the current regional management teams are aware of the need to ensure that cases are dealt with expediently, with the minimum of systematic delays.

See the Home Office response to the recommendations made following the Independent Chief Inspector for Borders and Immigration report on the handling of family reunion applications (Recommendation 7):


Q17. a. Please indicate any challenges experienced by i) sponsors and/or family members throughout the above-mentioned procedure(s), and/or ii) your (Member) State in the implementation of the examination procedure (for example, based on existing studies/evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

The Home Office has recently been inspected in relation its family reunion procedures.

There have been challenges in relation to asylum screening and interview records. In response to this best practice guidance for asylum caseworkers has been updated and circulated. This emphasises the need to obtain full details of the claimant’s family members during the asylum process and sets out why this is important.

Work is underway to change the method of recording the details of the asylum claimant’s family members on the case working system in a way that will negate the need to obtain a file read over or copy of the interview record, as those considering family reunion applications will be able to see the details of the family members on the case working system.

The Home Office is also reviewing its approach to DNA evidence including:

- funding for commissioned DNA testing where the Home Office is unable to verify documents provided by the applicant;
- deferral rather than refusal where the absence of DNA evidence is the only barrier to issuing entry clearance; and
- updating guidance so that it accurately reflects the approach and applicants are clear in what circumstances they should provide DNA test results with their application.

See the report of the Independent Chief Inspector for Borders and Immigration on the handling of family reunion applications (2016):

http://icinspectorg indepdant.gov.uk/wp-content/uploads/2016/09/An-inspection-of-
For the Home Office response to the recommendations made following the Independent Chief Inspector for Borders and Immigration report on the handling of family reunion applications, see:


b. Please provide any examples of proven (for example, through studies/evaluations) **good practices** that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (for example, based on existing studies/evaluations/other sources or information received from relevant authorities and stakeholders).

Best practice guidance for asylum caseworkers has been updated and circulated, emphasising the need to obtain full details of the claimant’s family members during the asylum process and setting out why this is important.

UKVI is establishing a central interpreter capability. Plans are being formulated to consolidate decision making for family reunion applications into one team based in the UK.
5. Access to rights following family reunion

Q18. Are family members entitled (in the same way as the sponsor) to access the following rights in your (Member) State (please also comment on any planned changes in the national legislation/policy/practice).

a. Access to education? Y/N

*If yes, please indicate whether any special measures to support access to education are available specifically to family members, for example, language assistance, guidance regarding the national education system.*

**Refugee family reunion**

Same access to services as their refugee sponsor (i.e. they would have access to education).

**Student, worker sponsors**

All third country national children under the age of 18 are entitled to education in the UK, unless they are in the UK on a short-term visa, such as a visitor visa.

If a dependant is over 18 at the time of their application or will turn 18 during their leave to remain in the UK then they will need to apply for an Academic Technology Approval Scheme (ATAS) certificate if they wish to undertake study or research that is one of the following.

- A doctorate or master’s degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 of the Immigration Rules.

- A taught master’s degree or other postgraduate qualification in one of the disciplines listed in paragraph 2 of Appendix 6 of the Immigration Rules.

39 Art. 14 of Directive 2003/86/EC in your (Member) State stipulates that family members are entitled (the same way as the sponsor) to access education, employment and self-employed activity, as well as vocational guidance and training. Art. 15 of Directive 2003/86/EC additionally specifies that family members are entitled to apply for autonomous right of residence after no later than five years, independent of that of the sponsor (also in case of dissolution of family ties).
• A period of study or research in excess of six months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of the Immigration Rules at an institution of higher education where this forms part of an overseas postgraduate qualification.

**Settled person sponsor**

Individuals joining family through this route are entitled to study.

**b. Access to employment and self-employed activity?**

If yes, please specify whether the access available to family members is limited in any way, for example, if such access is restricted for up to 1 year and/or limited to a maximum number of days per year, if this right is automatic or conditional upon obtaining a work permit.

**Refugee family reunion**

Same access to services as their refugee sponsor. They would be entitled to work. This is automatic.

**Student sponsor**

Dependants of Tier 4 (General) students are not allowed to work whilst in the UK if the main applicant’s grant of leave is for a course of study below degree level, unless the Tier 4 migrant is a government-sponsored student.

**Student and worker sponsors**

No dependants of any points-based system (PBS) sponsors are entitled to employment as a professional sportsperson (including coach) or employment as a doctor or dentist in training, unless they:

• have obtained a primary degree in medicine or dentistry from a listed UK institution, or hold a sports licence under Tier 4 of the PBS; and

• have leave to remain in the UK/entry clearance that did not restrict their employment in this area.

**Settled person sponsor**

Individuals joining family through this route are automatically entitled to work.

**c. Access to vocational guidance and training?**

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40 In addition to Directive 2003/86/EC, there are further legal migration directives containing specific provisions on access to employment of family members of certain sponsors, for example, family members of Blue Card holders or intra-company transfers (ICTs). Please elaborate on such specificities in the above answer.

41 Point 39 of the PBS (dependants) guidance.
If yes, please describe what the access to vocational guidance and training entails, for example, whether special guidance and training programmes are provided to family members or whether they have access to the general measures.

**Refugee family reunion**

Same access to services as their refugee sponsor.

**Student, worker sponsors**

All third country national children under the age of 18 are entitled to education in the UK, unless they are in the UK on a short-term visa, such as a visitor visa.

**Settled person sponsor**

Individuals joining family through this route are entitled to study.

**d. Right to apply for autonomous right of residence** independent of that of the sponsor (also in case of dissolution of family ties)? Y/N

*If yes, please specify if the access to this right differs depending on the kind of permit the family member receives.*

Open for the family member to apply to remain in the UK in any other immigration category, if they qualify.

**e. Any other rights granted to family members in your (Member) State, for example, healthcare, recourse to public funds, possibility for family members to apply for long-term residence status or naturalisation? Y/N**

*If yes, please specify what such access entails in practice in your (Member) State.*

**Refugee family reunion**

Same access to services as their refugee sponsor

**Student, worker and settled person sponsors**

No dependants of any PBS sponsors or settled person sponsors have recourse to public funds.\(^{42}\)

Most dependants of PBS sponsors have access to the NHS but must pay the immigration health surcharge of £200 per year. Some PBS schemes require a lower annual amount of £150, such as the Tier 5 Youth Mobility Scheme.

Partners joining their UK sponsor do not have access to public funds while they are on limited leave to remain and will need to pay the NHS health surcharge. Adult

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\(^{42}\) Point 39 of PBS (dependants) guidance. See [https://www.gov.uk/join-family-in-uk/overview](https://www.gov.uk/join-family-in-uk/overview) for settled person sponsors.
Family reunification of Third Country Nationals in the European Union

dependent relatives cannot access public funds for five years. Adult dependent relatives are granted immediate settlement upon entry to the UK and so are not subject to the immigration health surcharge.

Q19. Are family members of refugees and/or BSPs granted refugee/BSP status in their own right or a ‘derived’ permit (from that of the sponsor)? Please clarify how the type of permit issued differs in terms of its validity and rights attached to it. If possible, please also provide information on the cost of the permit.

Family members will be granted leave to remain in line with the sponsor but they will not be granted refugee status. This will be included in their family member’s biometric residence permit (BRP), which they will collect on arrival in the UK. The BRP does not confer status, only leave to remain, in line with the sponsor. BRPs are issued free of charge.

Q20. a. Do any conditions apply to sponsors and/or family members after admission for the purpose of family reunification in your (Member) State? Y/N

If yes, at which stage(s) after admission is examined whether these conditions have been fulfilled?

N/A

Does not fulfilling one of these conditions constitute a ground for non-renewal or withdrawal of the residence permit?43 Y/N

If yes, how are individual circumstances and interests44 taken into account?

N/A

If no, what are the consequences of not fulfilling the conditions (for example, obligation to pay a fine, exclusion from more favourable residence permits)?

N/A

Q21. a. Please indicate any challenges experienced by family members in your (Member) State with regard to accessing the above-mentioned rights (for example, based on existing studies/evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

N/A

43 Article 16 of Directive 2003/86/EC.
44 Article 17 and Article 24 of the Charter.
b. Please provide any examples of proven (for example, through studies/evaluations) good practices with regard to the provision of education/access to the labour market and vocational guidance and training/right to autonomous residence for family members in your (Member) State, etc. Please specify the source (for example, based on existing studies/evaluations/other sources or information received from relevant authorities and stakeholders).

N/A
6. National and international case law

Q22. Has the following CJEU/ ECtHR case law led to any changes in policy and/or practice in family reunification in your (Member) State?

- CJEU – C-540/03 European Parliament v. Council of the European Union;
- CJEU – C-558/14 Khachab v. Subdelegación del Gobierno en Álava;
- CJEU – C-153/14, Minister van Buitenlandse Zaken v. K and A;
- CJEU – C 338/13, Marjan Noorzia v. Bundesministerin für Inneres;
- CJEU – C-578/08, Rhimou Chakroun v. Minister van Buitenlandse Zaken;
- CJEU - C-356/11 and C-357/11, O. S. and L;
- ECtHR - Mugenzi v. France, Application No. 51701/09, 10 July 2014;
- ECtHR - Tuquabo-Tekle And Others v. The Netherlands, Application no. 60665/00, 1 March 2006;
- ECtHR - Hode and Abdi v. the United Kingdom, Application No. 22341/09, 6 February 2013;
- ECtHR – Biao v. Denmark, Application No. 38590/10, 24 May 2016.

Any other relevant case law (please specify)? Y/N

If yes, please briefly describe the changes brought about by this case law.

N/A

Q23. Has any national case law led to changes in policy and/or practice in family reunification in your (Member) State since 2011 onwards? Y/N

If yes, please briefly describe the changes brought about by this case law. (For example, in 2013 the Belgian Constitutional Court held that the differentiation of requirements for family reunification between refugees and beneficiaries of subsidiary protection is unlawful, hence the latter were exempted from the condition of sufficient income even after the period of one year when the sponsor is joined by his/her minor children. As well, in 2015 the Slovenian
Constitutional Court held that in specific factual circumstances the scope of family life should include non-nuclear family members who perform a similar or same function as the nuclear family, allowing for an individual examination of specific circumstances and leading to an amendment of the national legislation on family reunification.\textsuperscript{45}

N/A

\textsuperscript{45} European Legal Network on Asylum (ELENA) (2016), Information Note on Family Reunification for Beneficiaries of International Protection in Europe. \url{http://www.ecre.org/information-note-on-family-reunification-for-beneficiaries-of-international-protection-in-europe/}
Q24. With reference to Question 3.a. above, please complete the following table with national statistics on the (estimated) number of applications for family reunification, if available.

Please provide here a brief explanation of the metadata, describing, for example, the population covered, the method used to reach the estimates, any caveats as to their likely accuracy. It should be noted, given the differences in methods used to make the estimates, that it will not be possible to synthesise this information to produce a ‘total EU estimate’ for the Study.

In the UK the term ‘family reunion’ only includes joining those who have refugee or humanitarian status (who are not British citizens). In the Home Office Immigration Statistics there is not a published ‘family reunion’ category. However, most of the cases in the ‘family other’ category in the published statistics are in practice family reunion cases. There will be a few cases that are not family reunion so this number is an estimate.

Those applying to join a settled person in the UK will need to apply for a family visa. Settled persons include British citizens or, settled third country nationals or those who have asylum or humanitarian protection. There are published Immigration Statistics on the number of family visas applied for. The data are based on the number of applications and not broken down by sponsor type, i.e. they are not broken down by those joining a British citizen or those joining a settled third country national).

In the Home Office Immigration Statistics there are also figures on the number of dependants of those with visas for work and study.

There is another category of dependants captured in the Home Office Immigration Statistics. Data are also available on ‘other dependants’. This category includes dependants of non-points-based system sponsors, dependants of Armed Forces, some children in the family route, and dependants of NATO civilians.
Table 1. Number of family reunion and family visas applications, grants and refusals between 2011 – June 2016

<table>
<thead>
<tr>
<th>Year</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Jun-16</th>
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<td>Year</td>
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<td>2013</td>
<td>2014</td>
<td>2015</td>
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</tr>
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<tr>
<td></td>
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<td>Female</td>
<td>Total</td>
<td>Male</td>
<td>Female</td>
<td>Total</td>
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### Total number of rejected family visa and family reunion applications

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<th>Year</th>
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<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Jun-16</th>
</tr>
</thead>
<tbody>
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<td>Male</td>
<td>Female</td>
<td>Total</td>
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<td></td>
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